

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Cause No. 1:16-cr-0200-TWP-MJD
)	
ROBERT MILLER,)	- 01
)	
Defendant.)	

REPORT AND RECOMMENDATION

On April 19, and 26, 2021, the Court held a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on March 25, 2021. [Dkt. 59.] Defendant Miller appeared in person with his appointed counsel Sam Ansell. The government appeared by Barry Glickman, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Troy Adamson.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Miller of his rights and provided him with a copy of the Petition. Defendant Miller orally waived his right to a preliminary hearing.
2. After being placed under oath, Defendant Miller admitted violation numbers 1, 2, 3, and 4 as set forth in the Petition. [Dkt. 59.]
3. The allegations to which Defendant Miller admitted, as fully set forth in the Petition, are:

**Violation
Number**

Nature of Noncompliance

1

“You must not commit another federal, state or local crime.”

On March 15, 2021, Henderson County Kentucky Police Officers initiated a traffic stop on Mr. Miller as he was driving 96 mph in a 70 mph zone. Mr. Miller was behind the wheel of the vehicle, and officers smelled a strong odor of marijuana coming from the vehicle as they approached. Officers also noticed rolling papers and a large chunk of suspected marijuana on the console of the vehicle. Mr. Miller admitted smoking marijuana 45 minutes prior to the traffic stop. He was unsteady on his feet and failed a field sobriety test. The offender was arrested at the scene and officers found a pipe and additional marijuana in the vehicle. Officers spoke to the passenger in the vehicle, Danielle Malin, who also admitted to recently smoking marijuana with the offender. She handed officers a bag of marijuana she had concealed on her person. Officers found a small vial of suspected methamphetamine on Ms. Malin's keychain, and a needle and spoon in her purse containing drug residue. A bag containing 98 suspected escataty [sic] pills was located near where Ms. Malin was seated in the vehicle. Mr. Miller was charged in Henderson County Kentucky for operating a vehicle while intoxicated while using an unlawful substance, and possession of marijuana and drug paraphernalia, all misdemeanors. He is currently out on bond.

2

“You must refrain from any unlawful use of a controlled substance.”

On March 5, 2021, the offender submitted a urine test which returned positive for marijuana. He admitted using the substance prior to submitting the sample.

As previously reported to the Court, Mr. Miller submitted urine samples on July 9, 16, and September 24, 2020, which tested positive for marijuana. He admitted using the substance in each instance.

3

“You must refrain from any unlawful use of a controlled substance.”

On March 15, 2021, the offender was driving a vehicle and was arrested in Kentucky as noted above in violation 1. He did not have permission from the probation officer to be in Kentucky.

- 4 **“You shall notify the probation officer within 72 hours of being arrested, charged, or questioned by a law enforcement officer.”**

As outlined in violation 1, the offender was arrested on March 15, 2021, by the Henderson County Kentucky Sheriffs Department. He bonded out on March 15, 2021, and did not contact the probation officer as required.


4. The Court finds that:
- (a) The highest grade of violation is a Grade C violation.
 - (b) Defendant’s criminal history category is VI.
 - (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 8 to 14 months’ imprisonment.

5. The parties jointly recommended a sentence of eleven (11) months incarceration with no supervised release to follow. Defendant requested placement at a facility closest to Indianapolis, Indiana.

The Magistrate Judge, having considered the factors set forth in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions in the Petition, and recommends that Defendant's supervised release be revoked, and that Defendant be sentenced to the custody of the Attorney General or his designee for a period of eleven (11) months, with no supervised release to follow. This Magistrate Judge further recommends Defendant's placement at an appropriate facility nearest to Indianapolis, Indiana. The Defendant is released on his current conditions of supervised release pending designation by the Bureau of Prisons. Defendant is ordered to report upon designation.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties waived the fourteen-day period to object to this Report and Recommendation.

Dated: 26 APR 2021



Mark J. Dinsmore
United States Magistrate Judge
Southern District of Indiana

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